

Exhibit 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

1)	
2)	
3	WILMINGTON TRUST, N.A.,)	1:21-cv-01540-PKC-TAM
4)	
5	Plaintiff,)	Brooklyn, NY
6)	June 12, 2023
7	vs.)	2:03 PM
8)	
9	HERMAN SEGAL,)	
10)	
11	Defendant.)	

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE TARYN A. MERKL
UNITED STATES MAGISTRATE JUDGE

APPEARANCES (All present by video or telephone):

For the Plaintiff: JESUS E. CUZA, ESQ.
HOLLAND & KNIGHT LLP
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Suite 3300
Miami, FL 33131

For the Defendant: Herman Segal, Pro Se

ECR OPERATOR: No name provided

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1 THE COURT: Good afternoon. Ms. Kenn (ph), could you
2 call the case, please?

3 THE CLERK: This is civil cause for a status
4 conference, docket 21-cv-1540, Wilmington Trust, N.A. v. Segal.

5 Before asking the parties to state their appearance, I
6 would like to note the following. Persons granted remote
7 access to proceedings are reminded of the general prohibition
8 against photographing, recording, and rebroadcasting of court
9 proceedings. Violation of these prohibitions may result in
10 sanctions, including removal of court-issued media credentials,
11 restricted entry to future hearings, denial of entry to future
12 hearings, or any other sanctions deemed necessary by the Court.

13 Will the parties please state their appearances for
14 the record, starting with the plaintiff?

15 MR. JESUS CUZA: Afternoon, Your Honor. Jesus Cuza on
16 behalf of the plaintiff, from Holland & Knight.

17 MR. HERMAN SEGAL: Herman Segal, pro se defendant.

18 THE COURT: Good afternoon to you both.

19 So Mr. Cuza, we've been having these conferences every
20 couple of months or so, hoping to get some resolution to this
21 case. Where are we?

22 MR. CUZA: Your Honor, let me start with the end in
23 mind. It's our goal to bring this to closure by no later than
24 the first week of September.

25 THE COURT: I'm sorry, sir, you're breaking up a



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1 little bit. I couldn't hear you. You said you were trying to
2 bring it to closure by no later than when?

3 MR. CUZA: The first week of September. (Audio
4 interference) that's what we're looking (audio interference).
5 When I'm talking about this, I'm talking about (audio
6 interference). Let me tell you, Your Honor, we're --

7 THE COURT: Mr. Cuza, Mr. Cuza, I don't know what
8 phone you're on. But there's a lot of interference, and it's
9 cutting off your words. In the meantime, Mr. Segal, if you
10 could go on mute to reduce any extra noise, that might help me
11 hear Mr. Cuza. But I cannot understand you, sir.

12 MR. CUZA: Your Honor, I'm going to call from another
13 phone.

14 THE COURT: Okay.

15 AUTOMATED VOICE: Goodbye.

16 THE COURT: You still there, Mr. Segal?

17 MR. SEGAL: Yes, I am.

18 THE COURT: All right. Just hang tight; he's going to
19 call back. Thank you.

20 (Pause)

21 MR. CUZA: Okay. Your Honor, it's Jesus Cuza. Is
22 this better?

23 THE COURT: It is better. There's still some
24 background noise, but it's definitely somewhat clearer.

25 MR. CUZA: So Your Honor, what I was saying is that



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1 our goal is to bring this case to closure by early September.
2 We deposed Mr. Segal. He was scheduled to be deposed last
3 week. He didn't make it. I called him, and then he agreed to
4 come to our offices in New York today. And he did show up
5 today.

6 Your Honor, he showed up with no documents. That's an
7 issue that happened today. I'm going to read the transcript.
8 And I think there's a way that I'm going to be able to work
9 with that.

10 In addition to that, Mr. Segal also refused to answer
11 questions with regards to his conversations with Hancock, and
12 in addition to that, refused to identify the identity of a
13 person that Mr. Segal mentioned has the custody of certain very
14 old documents, documents dating back to the 1940s and 1950s,
15 and that are very relevant to the case.

16 Your Honor, all this happened earlier today. One of
17 the things that we're going to do is we're absolutely going to
18 have the meet-and-confer with Mr. Segal. And then we're going
19 to come back to you immediately after we have the meet-and-
20 confer with Mr. Segal.

21 The only thing that we need to do, Your Honor, to
22 bring this thing to closing is resolve this issue. And then
23 separately, I need the documents to be able to depose John
24 Hancock. I absolutely believe, based on what I've seen, Your
25 Honor, that we absolutely have what we need to bring the case



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1 to closure.

2 THE COURT: Um-hum. So --

3 MR. CUZA: The tricky part is -- go ahead, Your Honor.

4 THE COURT: You believe you have the documents? But
5 you will be able to get specific evidence to get John Hancock
6 to resolve it? Is that what you're saying?

7 MR. CUZA: Your Honor, it is my belief that there's a
8 strong possibility that that will happen. But again, there's
9 certain things that I need to pinpoint and focus on with
10 regards to the documents at issue. Again, Your Honor, we're
11 talking about documents that date back to 1940s, 1950s. These
12 are documents that are actually signed by Mr. Segal's mother.
13 These are everything from marriage certificates; these are
14 documents that were issued as a result of her coming to the
15 United States. These are really document (sic) that clearly
16 are ancient, if you will, quote unquote, and quite reliable.

17 So Your Honor, basically, that's where we are. Other
18 than what I'm telling you for the record, Your Honor, I don't
19 anticipate needing to do anything else. There is a
20 possibility -- I don't think it's high -- that we might need to
21 join John Hancock as a party to the case. One of the things
22 that we're trying to do is avoid that. But the possibility is
23 there. Again, like I just mentioned, I don't think it's high.

24 So that, Your Honor, kind of my summary of (audio
25 interference).



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1 THE COURT: Okay. So do you have anything to add, Mr.
2 Segal?

3 MR. SEGAL: Yes, I do. First of all, Your Honor, I
4 don't recall the specific verbiage, but I recall Mr. Cuza
5 saying, prior to Hancock sending them sixteen million dollars,
6 that should Hancock decide to send them money, even if it's
7 a -- not the full amount but a substantial amount, that they
8 would remove me as a defendant, and they have not done so.

9 And secondly, I had sent documents to Mr. Cuza in a --
10 in a -- in an effort to perhaps negotiate some type of
11 settlement. And he is now using these documents and attempting
12 to coerce me, and to coerce the Court to coerce me, to produce
13 these documents.

14 MR. CUZA: Your Honor, would you like me to respond?

15 THE COURT: Yes, please.

16 MR. CUZA: Your Honor, our intent -- there's no
17 question, at this particular point in time, our clients have
18 not received the total amount of the death benefits because of
19 Mr. Segal's actions to obstruct the receipt of those funds.

20 But for Mr. Segal creating (audio interference) the
21 date of birth of his mother, my client would've received the
22 entire amount. And had my client received the entire amount,
23 (audio interference) that it will not pursue further (audio
24 interference) against --

25 THE COURT: Mr. Cuza, I don't know where you are, but



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1 every fourth word is being interrupted by what sounds like
2 traffic.

3 MR. CUZA: Judge, it's not me; I'm in a conference
4 room. Mr. Segal, you're going to have to put it on mute.

5 MR. SEGAL: My phone is on mute. I'll do it again.
6 I'm muting again.

7 THE COURT: Thank you.

8 MR. CUZA: So Your Honor, where did I lose you?

9 THE COURT: You said something about -- this is the
10 problem; it's like every fourth word. You said something about
11 how your client would've received the full amount had Mr. Segal
12 not done something with regards to his mother's birthdate. And
13 had your client received the entire amount, and then it cut out
14 again.

15 MR. CUZA: So Your Honor, the only reason my client
16 hasn't received the entire amount of the death benefits is
17 because Mr. Segal's steps to obstruct the payment to my client,
18 of those entire death benefits due to my client. And how is it
19 that he has obstructed the payment -- he has created this
20 confusion with regards to her date of birth.

21 Mr. Segal has continued to communicate with John
22 Hancock. And that came out during today's deposition.
23 Although Mr. Segal did not want to share with us, or refused to
24 share with us, what it is that he specifically communicated
25 with John Hancock, during these communications that he had with



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1 John Hancock, Your Honor, we're pretty certain that the emails
2 that Mr. Segal has generated to John Hancock are going to show
3 that it has to do with the issue of date of birth. So there's
4 no question that my client has not received the death benefits
5 because of Mr. Segal's actions.

6 That notwithstanding, Your Honor, my client's intent
7 has not change. My client's intent is to bring this to closure
8 as soon as possible; collect the entire amount of death
9 benefits. And at that particular point in time, when my client
10 collects the entire amount of death benefits, my client is
11 absolutely intent, at this particular point in time, to waive
12 the claims that he -- that my client has against Mr. Segal.

13 So that is one topic that Mr. Segal raised. The other
14 topic that Mr. Segal raised -- Your Honor, what Mr. Segal sent
15 to me, which I informed the Court before, during our prior
16 hearings, are documents that are very old, that actually show a
17 date of birth for his mother. The date of birth, Your Honor,
18 was redacted. But in the conversations that Mr. Segal and I
19 had, Mr. Segal represented to me -- and I believed him, with
20 regards to this particular statement -- Mr. Segal represented
21 to me, right, that the dates on these documents show that his
22 mother was born on 1926, which is the date that's shown in the
23 application for insurance.

24 These documents are crucial, Your Honor. Because with
25 these documents, John Hancock does not have a reason to



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1 actually deny the total payment claimed as a result of the
2 death benefits under the policy, Your Honor.

3 So that's my response to Mr. Segal's statement. Your
4 Honor, if Your Honor would like me to cover another topic or to
5 expand more on what I just said, I'm happy to do that.

6 THE COURT: No. Thank you. That's a helpful
7 overview.

8 So we were last here on May 2nd. And at that point,
9 you did represent, Mr. Cuza, that you had been planning to take
10 Mr. Segal's deposition.

11 And I directed you, Mr. Segal, that you must respond
12 to plaintiff's discovery request and that you need to meet and
13 confer in good faith with regard to resolution of any dispute
14 that could come up during discovery. You are correct, sir,
15 that Mr. Cuza has represented, for many months now, that should
16 his client be able to recover the death benefits, he would seek
17 to dismiss his claims against you. But this has never been --
18 if he gets partial, that representation, Mr. Segal, was never
19 my understanding. My understanding as of the last conference
20 was that John Hancock had paid a portion of the funds and that
21 the plaintiff, understandably, is seeking to get the balance of
22 the insurance payments. And for that, he needed some
23 additional discovery due to some of the confusion that has been
24 created surrounding your mother's birthdate.

25 So I don't know what additional information you are



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1 looking to get, Mr. Cuza. But I do direct you both, including
2 you, Mr. Segal, to meet and confer, and try to resolve any
3 discovery disputes. Mr. Cuza's client has brought an action
4 against you, as you know, because of your -- what they're
5 claiming is your interference with their ability to recover the
6 death benefits. And you are required as a party in this case
7 to engage in discovery. It may be things you don't feel like
8 sharing. But that's what discovery is for.

9 So my hope is that the parties can work it out without
10 needing to come back to me to resolve any dispute that you may
11 have with regard to discovery. But should that not be
12 possible, I have a specific procedure. I ask the parties to
13 meet and confer, and if they can't work it out, write me a
14 joint letter, and we get the case on the calendar. Sometimes I
15 have the parties come in; we have a hearing. I look at the
16 documents, and I rule.

17 And that's how it's going to work, Mr. Segal, if the
18 discovery disputes cannot be resolved. Does that make sense to
19 you, sir?

20 MR. SEGAL: It does make sense to me. But there are
21 various factors in play which -- I don't know whether Your
22 Honor would want to hear them now. But those factors may
23 preclude Mr. Cuza from getting those documents.

24 THE COURT: It's possible. I'm not going to rule on
25 something or offer an opinion about something that I don't have



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1 knowledge about; hasn't been fully briefed. But if the
2 documents are relevant -- and relevance is broadly defined, Mr.
3 Segal -- it is very likely that they are discoverable in this
4 action, given the very narrow nature of the dispute here.

5 MR. SEGAL: Well, there's a question of whose custody
6 or has control over them. There's a question if they're still
7 in -- extant. And there's also a Fifth Amendment issue, where
8 certain documents may incriminate me in certain other matters.
9 So there's some legal and practical justification why those
10 documents may not be available for production.

11 But I'm more than welcome for Your Honor to -- to
12 litigate or to argue, and to come to some judicial conclusion
13 in case Mr. Cuza and myself cannot come to an agreement over
14 them.

15 THE COURT: I would just note, Mr. Segal, that the
16 Fifth Amendment protects individuals from giving compelled
17 speech that could incriminate them. No --

18 MR. SEGAL: I'm aware of the -- yes, Your Honor.

19 THE COURT: -- person shall be forced to be a witness
20 against himself. The Fifth Amendment rarely, very rarely,
21 protects parties from producing a document that is in their
22 possession. You have to have a special kind of protection
23 called an active production issue. And those are very rare.

24 MR. SEGAL: I'm familiar with the -- with the laws,
25 Your Honor. Thank you. And this does come under that rare



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1 exception. And again, you know, it's up to Mr. Cuza if he
2 wishes to -- to, you know, try to compel me in -- judicially or
3 he wants to discuss with me. I'm open to either suggestion.

4 THE COURT: So Mr. Cuza, what do you propose, sir? In
5 terms of next steps and timing?

6 MR. CUZA: Your Honor, we're going to have -- my
7 intent is to reach out to Mr. Segal immediately after today's
8 hearing. So it's our intent to have a meet-and-confer starting
9 today. I'm ordering the transcript expedited. So whatever we
10 can't accomplish today, it's my intent to reach out to Mr.
11 Segal immediately after I receive the transcript.

12 Your Honor, we will -- with the Court's permission, we
13 will file a letter advising the Court of the status of those
14 conversations. And if we have to follow the -- we have to move
15 to compel Mr. Segal, we will. And we will follow Your Honor's
16 order and instructions and procedures.

17 THE COURT: All right. Here's a question. Is there a
18 confidentiality order in this case?

19 MR. CUZA: Your Honor, I don't remember. But I don't
20 think -- I don't remember working on one, either.

21 THE COURT: Yeah, I don't think there is. So that's
22 another option.

23 So Mr. Segal, I don't know if you've ever had one of
24 these happen in a civil case before. But it is very common in
25 civil cases for parties to enter into what's called the



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1 confidentiality stipulation, that can then be converted to a
2 court order.

3 And what can happen, if there's a confidentiality
4 order, is that parties can designate sensitive documents as
5 confidential. And the party receiving them is typically only
6 permitted to use them in connection with the immediate case.
7 If you go to the Eastern District website, I have a model
8 confidentiality order on my area of the website. It's a (audio
9 interference). I don't know whose phone that is, but it's
10 extremely distracting. So whoever's not muted, please mute.

11 The confidentiality order that's on the drive -- on
12 the Eastern District's website -- if it's of use to the parties
13 in this case, you're welcome to submit a proposed
14 confidentiality order. And I'm prepared to, of course, sign
15 it. And that could provide an extra layer of confidentiality
16 to the provision of documents that are marked confidential.

17 This is commonly used for documents that involve
18 personal identifying information and information that is
19 sensitive. So that may also help to give you some comfort, Mr.
20 Segal, that the documents will be limited in their further
21 disclosures beyond Mr. Cuza. Does that make sense?

22 MR. SEGAL: It makes sense. But unfortunately, we're
23 talking here about potential criminal possibilities, in which
24 case the confidentiality would not suffice, Your Honor.

25 THE COURT: Mr. Cuza?



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1 MR. CUZA: Your Honor, number one, I disagree with Mr.
2 Segal's belief that he has a -- the type of criminal exposure
3 that he's alluding to, or criminal exposure with regards to the
4 documents that we are seeking to be produced. So Your Honor,
5 until I have the conversation with Mr. Segal, there's not much
6 more that I can say with regards to that.

7 During the depo, he raised an objection. Other than
8 raising the objection, and us covering what we needed to cover,
9 which he allowed us to cover, there's not much more that we
10 were able to do to advance on that particular issue, Your
11 Honor.

12 THE COURT: I understand. All right. I understand
13 both sides' positions. And I understand, to an extent, Mr.
14 Segal, what your concerns are. But I also am of the view that
15 this is a very narrow question. The question of which -- the
16 questions of custodian, and who had the documents when, none of
17 that matters. If you have access to the documents now, and
18 they are relevant, you must turn them over if they are relevant
19 to the case and Mr. Cuza asks for them.

20 If you're claiming that you have some sort of active
21 production Fifth Amendment concern, I suppose that can be taken
22 up in due course. But I also think there may be ways to help
23 mitigate that concern. And I would need a lot more context, of
24 course, before I could make any type of a legally -- a
25 factually informed legal determination about the viability of



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1 that argument.

2 There's so many questions that go into whether or not
3 there's a viable Fifth Amendment issue. And it's not just a
4 matter of whether or not something's inconsistent with
5 something. There's questions of timing; there's questions of
6 context. So there's a lot that would need to be explicated,
7 probably at a hearing, to be honest. I would need you under
8 oath, in the box, testifying, Mr. Segal, if I were to actually
9 be required to rule upon your Fifth Amendment claim.

10 So keep that in mind as well, Mr. Segal. It's not a
11 threat; it's just a true statement that I could not rule on a
12 Fifth Amendment argument without hearing testimony as to the
13 basis for the assertion of the Fifth Amendment privilege, and a
14 lot of context establishing why you think it's pertinent,
15 salient, and within the statute of limitations. That's another
16 important factor to think about. So need a lot of context as
17 to why you think the disclosure of these documents could expose
18 you to criminal liability.

19 So with that, Mr. Segal, and Mr. Cuza, when should we
20 check in with you again? I mean, you suggested writing a
21 letter, Mr. Cuza? How many weeks until you'd like to submit an
22 updated report?

23 MR. CUZA: Your Honor, I can send an updated report by
24 the end of the month. And that's more than sufficient time to
25 address this issue.



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1 THE COURT: Mr. Segal? Do you have time to confer
2 with Mr. Cuza in the next couple of weeks?

3 MR. SEGAL: It's up to him. I'm -- we're ready,
4 willing, and able, yes. Yes, Your Honor.

5 THE COURT: Okay. Thank you.

6 So I would ask for a status report from the parties by
7 June 30th. Please give me sort of a roadmap of the parties'
8 anticipated next steps. If you do anticipate that there are
9 irretractably difficult discovery issues that I need to get
10 involved in, Mr. Cuza, please highlight that as well. And if
11 it's type of thing where we just need to set it down for
12 briefing or hearing, you can inform me of that as well. Okay?

13 MR. SEGAL: Yes, Your -- yes, Your Honor.

14 THE COURT: All right. Anything else we should do
15 today, Mr. Cuza?

16 MR. CUZA: No, Your Honor. Thank you very much.

17 THE COURT: Mr. Segal, anything else I can do today?

18 MR. SEGAL: No. Thank you so much, Your Honor.

19 THE COURT: All right. Well, thank you both. Take
20 care, and stay safe.

21 MR. SEGAL: You, too.

22 THE COURT: Bye-bye.

23 (Proceedings concluded)

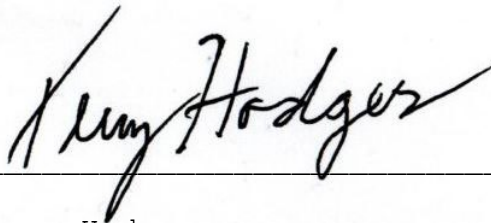
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C E R T I F I C A T I O N

I, Terry Hodges, court-approved transcriber, do hereby
certify the foregoing is a true and correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.



Terry Hodges

June 23, 2023

DATE

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